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Motor Company Group, LLC, incorrectly named
herein as Harley-Davidson, Motor Company, Inc.*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MANUEL GARZA, individually; VELKYS
RIVERA, individually

Plaintiffs,

vs.

EAGLERIDER HOLDINGS d/b/a
EAGLERIDER MOTORCYCLE RENTALS
AND TOURS; J.C. BROMAC
CORPORATION; HARLEY-DAVIDSON
MOTOR COMPANY, INC.; DOES I
through X, inclusive; and ROE
CORPORATIONS I through X, inclusive,

Defendants.

CASE NO.:

**DEFENDANT HARLEY-DAVIDSON
MOTOR COMPANY GROUP, LLC'S
PETITION FOR REMOVAL**

Defendant Harley-Davidson Motor Company Group, LLC, incorrectly sued as Harley-Davidson Motor Company, Inc. ("Removing Defendant") removes this case to the United States District Court for the District of Nevada on the following grounds:

I. INTRODUCTION

1. Plaintiffs Manuel Garza and Velkys Rivera allege that the named defendants manufactured, assembled, sold, and/or, distributed a defective motorcycle which proximately caused Plaintiffs' injuries. Plaintiffs further allege that defendants breached their duties of care,

1 breached their implied warranty of merchantability, breached their express warranty, breached their
2 contract, and were negligent. *See generally* Plaintiffs' Complaint ("Compl.").

3 2. On or about September 21, 2022, Plaintiffs filed a civil action against Removing
4 Defendant and others in the Eighth Judicial District Court, in and for Clark County, Nevada,
5 captioned *Manuel Garza, individually; Velkys Rivera, individually vs. Eaglerider Holdings, et al.*,
6 Case no. A-22-858695-C (the "State Court Action").

7 3. As more fully set forth below, this case is properly removed to this Court pursuant
8 to 28 U.S.C. § 1441 because Removing Defendant has satisfied the procedural requirements for
9 removal and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

10 **II. THE REMOVING DEFENDANT HAS SATISFIED THE PROCEDURAL**
11 **REQUIREMENTS FOR REMOVAL.**

12 4. Plaintiffs filed their original Complaint on September 21, 2022. Plaintiffs served a
13 copy of the Complaint and Summons on Removing Defendant on September 29, 2022. This Notice
14 of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because it was filed within thirty (30)
15 days after the Removing Defendant was first served with a pleading setting forth Plaintiffs' claim.

16 5. This action is properly removed to the United States District Court for the District
17 of Nevada because it is the district and division embracing Clark County, Nevada, where the State
18 Court Action is pending. 28 U.S.C. § 1441(a). No previous application has been made for the relief
19 requested herein.

20 6. Pursuant to 28 U.S.C. § 1446(a), accurate and complete copies of all the process,
21 pleadings, and orders served on Removing Defendant and documents filed in the State Court Action
22 are attached hereto as **Exhibit 1**.

23 7. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served
24 upon counsel for Plaintiffs and is to be filed with the Clerk of the Eighth Judicial District Court,
25 Clark County, Nevada. A copy of the Notice of Removal being filed in state court is attached as
26 **Exhibit 2**.

27 8. Pursuant to 28 U.S.C. § 1446(b)(2)(A) Defendants Eaglerider, and J.C. Bromac
28 consent to removal of this action, attached as **Exhibit 3**.

III. REMOVAL IS PROPER PURSUANT TO 28 U.S.C. §§ 1332 AND 1441 BECAUSE THE PARTIES ARE DIVERSE.

9. Plaintiffs Manuel Garza and Velkys Rivera allege that they are residents of Clark County, Nevada. Compl. ¶ 1, 2. Thus, the Removing Defendant is informed and believes that Plaintiffs are citizens of Nevada.

10. Removing Defendant is a Wisconsin limited liability company with its principal place of business located at 3700 W. Juneau Ave. Milwaukee, Wisconsin 53208. Thus, Removing Defendant is a citizen of Wisconsin. Further, while Harley-Davidson Motor Company, Inc. is not a proper party to this action, it is a Wisconsin corporation with its principal place of business at 3700 W. Juneau Ave. Milwaukee, Wisconsin 53208.

11. Eaglerider Holdings (“Eaglerider”) is a Delaware corporation with its principal place of business located at 11860 S. La Cienega Blvd. Hawthorne, California 90250. Thus, Eaglerider is a citizen of Delaware and California.

12. J.C. Bromac Corporation (“J.C. Bromac”) is a California corporation with its principal place of business located at 11860 S. La Cienega Blvd. Hawthorne, California 90250. Thus, J.C. Bromac is a citizen of California.

13. Plaintiffs and the defendants are therefore completely diverse. This Court has jurisdiction over this action under 28 U.S.C. § 1332(a) and 28 U.S.C. § 1441(b).

IV. REMOVAL IS PROPER PURSUANT TO 28 U.S.C. §§ 1332 AND 1441 BECAUSE THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED.

14. In the Complaint, Plaintiffs seek recovery for general damages in excess of \$15,000, compensatory and special damages in excess of \$15,000, attorney’s fees, prejudgment interest, and costs, and further relief deemed just and proper by the Court. Compl. ¶ 65-67.

15. Nevada rules provide, if the pleader seeks more than \$15,000 in monetary damages, the demand for relief may request damages “in excess of \$15,000” without further specification of the amount. *See* NRCP 8; *see also* Compl. (Ex. 1) at ¶ 65-67.

16. Removing Defendant denies that Plaintiffs are entitled to any relief, but in assessing the amount in controversy, a court must “assume that the allegations of the complaint are true and

1 assume that the jury will return a verdict for the plaintiff on all claims made in the complaint.”
2 *Campbell v. Vitran Exp., Inc.*, 471 Fed. Appx. 646, 648 (9th Cir. 2012) (citation omitted). The
3 amount in controversy also includes attorneys’ fees. *Guglielmino v. McKee Food Corp.*, 506 F.3d
4 696, 700 (9th Cir. 2007) (“Section 1332(a)’s amount-in-controversy requirement . . . includes
5 attorney’s fees.”).

6 17. Specifically, Plaintiffs seek several categories of damages based on their injuries for
7 the alleged motorcycle accident including actual and compensatory damages for “past and future
8 pain and suffering, loss of enjoyment of life,” medical expenses for “past and further medical care
9 and treatment,” lost wages and incomes, and attorney’s fees. *See* Compl. (Ex. 1) at ¶ 22 and p. 13;
10 Prayer for Relief.

11 18. Given the nature of the injuries allegedly caused and the damages allegedly
12 sustained, it is apparent from the Complaint that the amount in controversy exceeds the sum or
13 value of \$75,000.

14 19. This case satisfies the amount in controversy requirement for purposes of diversity
15 jurisdiction because Plaintiffs seek damages in excess of \$75,000, exclusive of interest and costs.
16 28 U.S.C. § 1332(a).

17 **V. CONCLUSION**

18 20. This case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441,
19 and 1446.

20 21. By filing a Notice of Removal in this matter, Removing Defendant does not waive
21 its rights to object to jurisdiction over the person, venue, and the expiration of the applicable statute
22 of limitations, and specifically reserves the right to assert any other defenses and/or objections to
23 which they may be entitled as a matter of law or equity.

24 WHEREFORE, Harley-Davidson Motor Company Group, LLC, incorrectly sued as
25 Harley-Davidson Motor Company, Inc., respectfully requests that the above captioned action now
26 pending in the Eighth Judicial District Court, in and for Clark County, Nevada, be removed to the
27 United States District Court for the District of Nevada, and that the United States District Court
28

1 assume jurisdiction over this action and enter such further orders as may be necessary to accomplish
2 the requested removal.

3 DATED this 20th day of October, 2022.

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5 **EVANS FEARS & SCHUTTERT LLP**

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15 *Attorneys for Defendant Harley-Davidson*
16 *Motor Company Group, LLC, incorrectly named*
17 *herein as Harley-Davidson, Motor Company, Inc.*
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **DEFENDANT HARLEY-DAVIDSON MOTOR COMPANY GROUP, LLC'S PETITION FOR REMOVAL** was served on counsel of record this 20th day of October, 2022 using the Court's CM/ECF System.

/s/ Faith Radford

An Employee of Evans Fears & Schuttart LLP